

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:12CR134 MAC/ALM
	§	
MELECIO LOPEZ HERNANDEZ	§	

**REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on January 13, 2015 to determine whether Defendant violated his supervised release. Defendant was represented by John Bray. The Government was represented by Kevin McClendon.

On September 9, 2013, Defendant was sentenced by the Honorable Marcia A. Crone, United States District Judge, to a sentence of 21 months imprisonment followed by a 3-year term of supervised release, for the offense of reentry of deported alien. Defendant began his term of supervision on November 5, 2013. He was deported on November 7, 2013.

On November 10, 2014, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 42). The Petition asserts that Defendant violated the following conditions of supervision: (1) As a condition of supervised release, immediately upon release from confinement, Defendant shall be surrendered to a duly authorized immigration official for deportation proceedings in accordance with the established procedures provided by the Immigration and Nationality Act, 8 U.S.C. § 1101, *et seq.* If ordered deported, Defendant shall remain outside the United States. In the event Defendant is not deported, or for any

reason re-enters the country after having deported, Defendant shall comply with all conditions of supervised release, to include reporting to the nearest U.S. Probation Office within 72 hours of release by immigration officials or re-entry into the country.

The Petition alleges that Defendant committed the following violations: (1) On October 30, 2014, Defendant was arrested by the Webb County, Texas, Sheriff's Department, pursuant to an outstanding warrant from Collin County, Texas, for Driving While Intoxicated 2<sup>nd</sup>, which occurred on March 30, 2012, prior to his supervision term. Defendant was booked into the Collin County Jail on November 6, 2014, and an immigration detainer was lodged. As evidenced by his arrest, Defendant failed to remain outside of the United States after having been deported.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

#### **RECOMMENDATION**

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the January 13, 2015 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of ten (10) months, with no supervised release to follow, along with a special assessment fee of \$100.00.

**SIGNED this 27th day of January, 2015.**

  
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DON D. BUSH  
UNITED STATES MAGISTRATE JUDGE